

1
2 UNITED STATES DISTRICT COURT
3 NORTHERN DISTRICT OF CALIFORNIA
4 SAN FRANCISCO DIVISION

5 CENTER FOR BIOLOGICAL DIVERSITY,)
6 a non-profit corporation; SIERRA CLUB, a)
7 non-profit corporation; and PUBLIC)
8 EMPLOYEES FOR ENVIRONMENTAL)
9 RESPONSIBILITY, a non-profit corporation,)

10 Plaintiffs,)

11 v.)

12 BUREAU OF LAND MANAGEMENT)

13 Defendant,)

14 and,)

15 DESERT VIPERS MOTORCYCLE CLUB,)
16 SAN DIEGO OFF-ROAD COALITION,)
17 CALIFORNIA ASSOCIATION OF 4-)
18 WHEEL DRIVE CLUBS, and THE BLUE)
19 RIBBON COALITION,)

20 Defendant-Intervenors)

Case No: C-00-0927 WHA (JCS)

**AMENDMENT TO STIPULATION AND
PROPOSED ORDER CONCERNING
ALL FURTHER INJUNCTIVE RELIEF
ORIGINALLY FILED ON JANUARY 17,
2001**

21 WHEREAS, in this matter, on January 17, 2001, Plaintiffs, Center for Biological Diversity,
22 Sierra Club and Public Employees for Environmental Responsibility ("Plaintiffs"), Defendant, Bureau
23 of Land Management ("BLM"), and Defendant-Intervenors Desert Vipers Motorcycle Club, San Diego
24 Off-Road Coalition, California Association of 4-Wheel Drive Clubs, and The Blue Ribbon Coalition,
25 entered into and filed a Stipulation and Order Concerning All Further Injunctive Relief;

26 WHEREAS, the parties to the Stipulation thereafter engaged in further discussion and
27 negotiations regarding the Stipulation and Order Concerning All Further Injunction Relief (hereinafter
28 "Stipulation"):

1 THEREFORE, the parties agree as follows:

2 1. All provisions of the Stipulation and Proposed Order Concerning All Further Injunctive
3 Relief filed on January 17, 2001 that are not specifically amended by this document are fully
4 incorporated into this Amendment by reference and remain in effect in their original form.

5 2. Paragraph 8 is amended to read as follows:

6 In the Argus Mountains, BLM shall:

7 (A) For Wilderness Areas, take necessary steps in accordance with Section 706 of the
8 California Desert Protection Act of 1994 (Pub. L. 103-433) to preserve the water rights reserved by
9 Congress;.

10 (B) For BLM lands outside of Wilderness Areas, investigate its authority to file, and pursue
11 if authorized, state water rights applications to secure federal water rights for all springs. If authorized,
12 during 2001, the BLM commits to file state water rights applications for at least 10 springs in the Argus
13 Mountains. During 2002, the BLM commits to file state water rights applications for an additional 5 to
14 10 springs in the Argus Mountains. During 2003, the BLM commits to file state water rights
15 applications for all remaining BLM land springs in the Argus Mountains.

16 3. Paragraph 9 is amended to read as follows:

17 To protect and recover the Cushenberry milkvetch (Astragalus albens), Cushenberry oxytheca
18 (Oxytheca parishii var. goodmaniana), Parish's daisy (Erigeron parishii), and Cushenberry buckwheat
19 (Eriogonum ovalifolium var. vineum):

20 (A) BLM shall coordinate with the U.S. Forest Service in the development of the Carbonate
21 Habitat Management Strategy ("CHMS") planning process and begin implementation by June 1, 2001.
22 BLM will cooperate with the U.S. Forest Service, the Center, and the California Native Plant Society
23 on the implementation and monitoring of the CHMS.

24 (B) BLM shall take immediate action to process any U.S. Forest Service application for
25 mineral withdrawal in the San Bernardino Mountains to benefit threatened or endangered plants.

26 (C) BLM shall petition for mineral withdrawal of BLM lands in support of the CHMS to
27 protect the habitat of these threatened or endangered carbonate endemic plants.

1 (D) BLM shall not approve any new mining plans of operation or any expansion of existing
2 mining plans of operations in the habitat of the threatened or endangered carbonate endemic plants that
3 “may affect” the species. Nothing in this provision precludes BLM from processing any such
4 application.

5 4. Paragraph 18 is amended to read as follows:

6 To protect the Inyo California towhee:

7 (A) BLM shall install vehicle barriers in the vicinity of Christmas, Nadeau, North Ruth and
8 Austin springs by July 1, 2001. These barriers will direct vehicle use and recreational use away from
9 riparian vegetation.

10 (B) BLM shall develop a list of springs that have unresolved burro or OHV conflicts and a
11 schedule for the installation of needed fencing, in consultation with the parties, by February 15, 2001.
12 This schedule shall provide that the needed fencing shall be completed within one-year of the date of
13 the signing of this agreement by the Parties. BLM shall monitor and maintain these exclosures. These
14 fenced exclosures shall include an appropriate buffer around the springs that includes all present and
15 potential riparian habitat.

16 (C) By April 1, 2001, BLM shall determine whether or not facilities used to divert water at
17 Alpha Spring, Bainter Springs, Surprise Canyon, and Hall Canyon are properly authorized. If any such
18 facilities are determined to be unauthorized, BLM shall immediately take all necessary steps to
19 terminate the use of unauthorized facilities.

20 (D) BLM will work to improve habitat and scenic quality in the Great Falls Basin ACEC.
21 This work will include trash removal, relocation of campsites, reclamation and barricading of hill
22 climbs, restoration of OHV routes (to preclude vehicle use), and installation of an information kiosk.
23 This work shall be completed by June 30, 2001.

24 (E) In accordance with existing state and federal law, BLM shall restrict vehicle and
25 camping access near all accessible springs in the historic range of the Inyo California towhee within
26 one-year of the date of the signing of this agreement by the parties.

1 5. Paragraph 22 is amended to read as follows:

2 For protection of southwestern willow flycatcher and least Bell's vireo from the effects of on-
3 going, authorized grazing:

4 (A) In coordination with FWS and USFS, the BLM will identify potentially suitable habitat
5 for southwestern willow flycatcher and least Bell's vireo in active grazing allotments. Using the best
6 available documentation, aerial photographs, and knowledge of field staff, the BLM will identify these
7 sites on maps by April 1, 2001. Field assessments of habitat suitability for these sites will be initiated
8 in April, 2001 and completed within two years.

9 (B) Those sites determined to contain suitable habitat for least Bell's vireo and southwestern
10 willow flycatcher will be surveyed in the next breeding season according to established protocols.

11 (C) Where southwestern willow flycatcher and/or least Bells vireo are found breeding, the
12 BLM will evaluate the status of existing biological opinions from FWS with regard to the grazing
13 allotment. If necessary, consultation will be initiated or reinitiated. Until any such consultation is
14 completed, BLM will not allow grazing on BLM lands within three miles of the breeding location
15 during the breeding season as defined by FWS. BLM will implement all terms and conditions of
16 subsequent biological opinions and amend the CDCA Plan, if required.

17 6. Paragraph 30 is amended to read as follows:

18 By March 15, 2001, BLM will amend its brochures and maps distributed to the public to
19 encourage camping only in previously disturbed sites.

20 7. Paragraph 33 is amended to read as follows:

21 BLM will not authorize any new mining plans of operations or expansions of existing mining
22 plans of operations in excess of two acres per operation, not to exceed 20 acres cumulatively for all
23 operations, in the critical habitat of threatened or endangered species or in occupied habitat for those
24 species where critical habitat has not been designated. Nothing in this provision precludes BLM from
25 processing any such application.

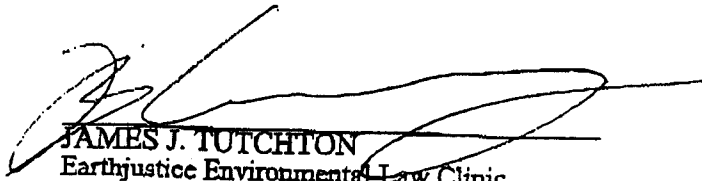
26 8. The following provision is added to the Stipulation:

27 Nothing in this Stipulation circumscribes the authority of the United States Army and its agents
28 and assigns ("the Army") to operate the National Training Center at Fort Irwin, California ("NTC") in

its current training mission and under current agreements with BLM, FWS, and other entities who may be party to this action; further, nothing in this Stipulation circumscribes, limits, or curtails the authority of the Army or other federal agencies to conduct needed studies and to take conservation measures as defined in Public Law 106-554.

**FOR PLAINTIFFS CENTER FOR BIOLOGICAL
DIVERSITY; SIERRA CLUB AND PUBLIC
EMPLOYEES FOR ENVIRONMENTAL
RESPONSIBILITY**

Dated: 2/27/01


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MANAGMENT

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Dated: _____

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BLM signature block

FOR DEFENDANT-INTERVENORS
DESERT VIPERS MOTORCYCLE CLUB, SAN
DIEGO OFF-ROAD COLATION; CALIFORNIA
ASSOCIATION OF 4-WHEEL DRIVE CLUBS, AND
THE BLUE RIBBON COALITION

Dated: 3/1/01


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2 PURSUANT TO STIPULATION, IT IS SO ORDERED.
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4 DATED the ____ day of _____, 2001
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8 WILLIAM ALSUP
9 UNITED STATES DISTRICT JUDGE
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